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10/797,710	03/10/2004	Katsuichi Osakabe	2552-000063	4255
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GHESY, ADAM				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/797,710

**Applicant(s)**

OSAKABE ET AL.

**Examiner**

ADAM R. GIESY

**Art Unit**

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 February 2008.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-15 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 02 April 2007 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Inventor's Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-15 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Examiner fails to find any description of the term "old user data" in the specification. Since no definition of the above term can be found in order to clarify the claims in light of the specification, then Examiner will read "old user data" to be "old data".

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-13 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Miyashita et al. (hereinafter Miyashita – US Pat. No. 5,949,747).

Regarding claim 1, Miyashita discloses an optical disk recording method comprising: deriving a recording condition of old user data recorded on a rewritable optical disk by reproducing the old user data or from a reproduced waveform (see column 10, lines 18-40 – note that the conditions mentioned in the above passage cannot be determined unless data is reproduced from the tracks, therefore the conditions are inherently realized from a reproduced waveform); deciding an overwriting recording condition to overwrite new data on the old user data recorded under the recording condition of the old user data (see column 8, line 56 thru column 9, line 8); and overwriting the new data on the old user data according to the decided overwriting recording condition (see Figure 12, elements S1-S20).

Regarding claim 2, Miyashita discloses all of the limitations of claim 1 as discussed in the claim 1 rejection above and further that the recording condition of the old user data is derived upon an instruction to overwrite the new data on old user data recorded on the rewritable optical disk (see column 9, lines 13-38 – note that since overwriting is taking place, the process of overwriting inherently involves an instruction to overwrite new data onto old data).

Regarding claim 3, Miyashita discloses an optical disk recording method comprising: detecting a crosstalk amount from a reproduced signal of old user data recorded on a rewritable optical disk (see column 7, line 57 thru column 8, line 5); setting a recording condition based on the detected crosstalk amount (column 9, lines 33-38); and overwriting new data according to the recording condition (see Figure 12, elements S1-S20).

Regarding claim 4, Miyashita discloses all of the limitations of claim 3 as discussed in the claim 3 rejection above and further that the crosstalk amount is detected upon an instruction to overwrite the new data on old user data recorded on the rewritable optical disk (see column 5, lines 50-53).

Regarding claim 5, Miyashita discloses all of the limitations of claim 3 as discussed in the claim 3 rejection above and further that the recording condition is set in response to a difference between the detected crosstalk amount and a reference crosstalk amount (see column 16, lines 25-46; see also column 15, lines 37-58).

Regarding claim 6, Miyashita discloses all of the limitations of claim 5 as discussed in the claim 5 rejection above and further that an optimum recording power is decided by applying a trial writing onto a trial writing area of the rewritable optical disk, and the reference crosstalk amount is detected based on a reproduced signal of data that are recorded at the optimum recording power (see column 16, lines 25-46; see also column 15, lines 37-58).

Regarding claim 7, Miyashita discloses an optical disk recording method comprising: acquiring a peak-to-peak value of a reproduced signal of old user data recorded on a rewritable optical disk (see Figure 15d); setting a recording condition based on the peak-to-peak value (see column 8, line 56 thru column 9, line 8); and overwriting new data according to the recording condition (see Figure 12, elements S1-S20).

Regarding claim 8, Miyashita discloses all of the limitations of claim 7 as discussed in the claim 7 rejection above and further that the peak-to-peak value is

acquired upon an instruction to overwrite the new data on old user data recorded on the rewritable optical disk (see column 9, lines 13-38 – note that since overwriting is taking place, the process of overwriting inherently involves an instruction to overwrite new data onto old data).

Regarding claim 9, Miyashita discloses all of the limitations of claim 7 as discussed in the claim 7 rejection above and further that an optimum recording power is decided by applying a trial writing onto a trial writing area of the rewritable optical disk, and the recording condition is set in response to a difference between the peak-to-peak value of the reproduced signal of data recorded at the optimum recording power and the peak-to-peak value of the reproduced signal of the old user data (see column 16, lines 25-46; see also column 15, lines 37-58).

Regarding claim 10, Miyashita discloses an optical disk recording method comprising: applying a trial writing while changing a laser power irradiated onto a trial writing area of a rewritable optical disk by a predetermined amount (see column 15, lines 50-58); deciding an optimum recording power based on a reproduced signal of trial-written data (see column 15, lines 49-50); acquiring a first peak-to-peak value based on a peak value and a bottom value of a reproduced signal of data recorded at the optimum recording power (column 15, lines 59-66); acquiring a second peak-to-peak value based on a peak value and a bottom value of a reproduced signal of old user data recorded on the rewritable optical disk (see column 16, lines 25-46; see also column 15, lines 37-58); and correcting an erasing power of a laser beam irradiated onto the rewritable optical disk in response to a difference between the first and second

peak-to-peak values, and overwriting the new data by applying a corrected erasing power (see Figure 12, elements S3-S5).

Regarding claim 11, Miyashita discloses all of the limitations of claim 10 as discussed in the claim 10 rejection above and further that the trial writing is applied upon an instruction to overwrite the new data on old user data recorded on the rewritable optical disk (see column 9, lines 13-38 – note that since overwriting is taking place, the process of overwriting inherently involves an instruction to overwrite new data onto old data).

Regarding claim 12, Miyashita discloses an optical disk recording system comprising: a reproducing unit which reproduces data recorded on a rewritable optical disk (Figure 1, element 9); a crosstalk detecting unit which detects a crosstalk amount from a reproduced signal of the reproducing unit (element 7); a recording-condition setting unit which sets a recording condition based on the crosstalk amount detected by the crosstalk detecting unit (10); and a recording unit which overwrites new data on old user data according to the recording condition set by the recording-condition setting unit (5).

Regarding claim 13, Miyashita discloses an optical disk recording system comprising: a reproducing unit which reproduces data recorded on a rewritable optical disk (Figure 1, element 9); an envelope detecting unit which acquires a peak-to-peak value of a reproduced signal of the reproducing unit (element 7); a recording-condition setting unit which sets a recording condition based on the peak-to-peak value acquired by the envelope detecting unit (10); and a recording unit which overwrites new data on

old user data according to the recording condition set by the recording-condition setting unit (5).

Regarding claim 15, Miyashita discloses an optical disk recording method comprising: deriving a recording condition of old user data recorded on a rewritable optical disk by reproducing the old user data and detecting a crosstalk amount from the reproduced old user data (see column 16, lines 25-46; see also column 15, lines 37-58); deciding an overwriting recording condition to overwrite new data on the old user data recorded under the recording condition of the old user data based on the detected crosstalk amount (see column 16, lines 25-46; see also column 15, lines 37-58); and overwriting the new data on the old user data according to the decided overwriting recording condition (see Figure 12, elements S1-S20).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miyashita et al. (hereinafter Miyashita – US Pat. No. 5,949,747).

Regarding claim 14, Miyashita discloses all of the limitations of claim 1 as discussed in the claim 1 rejection above. Miyashita does not directly disclose that the apparatus that records the new data is different from the apparatus that recorded the old user data.



Examiner hereby takes Official Notice that it is well known in the art of dynamic optical recording to manufacture an optical disc as disclosed by Miyashita in such a way that would allow the same optical disc to be written and rewritten to by multiple recording and re-recording apparatuses. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use the optical disc recording method as disclosed by Miyashita, the motivation being to allow multiple users with multiple recording and re-recording apparatuses to record and use the same rewritable optical disc.

***Response to Arguments***

7. Applicant's arguments filed 12/18/2007 have been fully considered but they are not persuasive.

Applicant argues, on page 7 of the Remarks filed on 12/18/2007, that the amendments limiting the "old data" to "old user data" now overcomes the prior art of Miyashita. Examiner respectfully disagrees. Examiner asserts that Miyashita discloses user data. Miyashita refers to the previously recorded data as test data. However, since that test data appears to be written in user data sectors (see Figure 3) and the data is modulated much like "user data" (see Figure 16), Examiner is therefore considering that data to be equal to user data.

Examiner agrees that it was note that claims did not contain any limitation that the data was previously recorded (as stated on page 7 of the Remarks). Examiner asserts that this remark was in response to the Arguments posed by Applicant on pages 7-8 of the Remarks filed on 4/2/3007 indicating that the invention different from the

Art Unit: 2627

Miyashita reference since the current application was based on "previously recorded data" (see Page 7 of Remarks).

***Conclusion***

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

a. Fujii (US Pat. No. 5353266) discloses a magneto-optical disc and overwriting method involving the use of test writing data wherein the crosstalk is taken into consideration.

b. Nishimura (US Pat. No. 5,862,105) discloses a magneto-optical disc and method of rewriting using a data verification system.

c. Kobayashi et al. (US Pat. No. 5,428,586) discloses a method of overwriting a magneto-optical disc wherein crosstalk is taken into account.

d. Satomura et al. (US Pat. No. 5,485,433) discloses a method of overwriting for a magneto-optical medium.

e. Fukuchi et al. (US Pat. No. 6,687,207 B2) discloses a method of ROPC for overwriting old data on rewritable optical discs.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ADAM R. GIESY whose telephone number is (571)272-7555. The examiner can normally be reached on 8:00am- 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wayne R. Young can be reached on (571) 272-7582. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 2627

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ARG 3/26/2008

/Adam R. Giesy/  
Examiner, Art Unit 2627

/Wayne R. Young/  
Supervisory Patent Examiner, Art Unit 2627